IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SANDRA L. WEAVER,

Plaintiff,

vs.

TRUGREEN HOLDING, LLC, d/b/a,
TRUGREEN LANDCARE, a/k/a
LANDCARE USA,

Defendant.

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JURY REQUESTED

COMPLAINT FOR RETALIATION

COMES NOW, Plaintiff, Sandra L. Weaver, hereinafter "Ms Weaver", by and through her attorney of record, J. Edward Hollington, J. Edward Hollington & Associates, P.A., and hereby submits a Complaint against TruGreen Holding, LLC, d/b/a Trugreen Landcare, a/k/a Landcare USA, hereinafter "TruGreen".

I. JURISDICTION

1. Ms. Weaver is a resident of Albuquerque, Bernalillo County, New Mexico.

2. Defendant TruGreen, is a foreign limited liability corporation principally located in Memphis, Tennessee.

3. TruGreen is an employer engaged in an industry effecting commerce and has more than twenty (20) employees.

4. Ms. Weaver brings her claims pursuant to 42 U.S.C. Section 2000e, et seq., and 29 U.S.C. Section 623a, et seq., hereinafter "ADEA".

STATEMENT OF FACTS

5. Ms. Weaver is a female whose date of birth is October 1, 1949.

6. Ms. Weaver was an officer and principal of Albuquerque Grounds Maintenance, a New Mexico corporation, hereinafter "AGM".

7. On or about November of 1998, AGM was acquired by TruGreen.

8. Ms. Weaver was retained as President of AGM but is considered an employee of TruGreen.

9. Pursuant to a contractual agreement, Ms. Weaver was appointed President of AGM by TruGreen and in that capacity she is in charge of the overall management and operations of TruGreen operations in Albuquerque, New Mexico.

10. Although Ms. Weaver is President of AGM, TruGreen treats Ms. Weaver like a Branch Manager and expects her to report to the District Manager of TruGreen.

11. All TruGreen District Managers are males.

12. In February of 2000, TruGreen hired a male into the District Manager position, which district includes New Mexico.

13. TruGreen did not advertise, post nor recruit for the position of District Manager.

14. Ms. Weaver had expressed an interest in the District Manager position should it be opened; yet she was not given notice of the opening nor an opportunity to apply.

15. Ms. Weaver was qualified by experience, training and knowledge to fill the position of District Manager.

16. TruGreen's organizational structure is dominated by males with few women in management positions, specifically District and Branch Manager positions.

17. TruGreen makes no effort to recruit women into management positions particularly District and Branch Manager positions and fosters an atmosphere of "good ol' boys"

which has the effect of excluding women.

18. The District Manager of TruGreen has communicated his desire to remove Ms. Weaver and replace her with a male under the age of 40.

19. TruGreen's agents, representatives and employees have harassed, intimidated and subverted Ms. Weaver's authority and control over AGM.

20. TruGreen's agents, representatives and employees have excluded Ms. Weaver from meetings, and told her that her work should just consist of taking pictures and she should let others run the business.

21. TruGreen's acts against Ms. Weaver have created a hostile environment in that AGM employees are encouraged to disregard Ms. Weaver's authority, ignore her directions and to only take directions from TruGreen's District Manager.

22. TruGreen does not treat male Branch Managers in the same manner as Ms. Weaver.

23. TruGreen's agents, representatives and employees have made gender biased statements against Ms. Weaver revealing an animus against women.

24. TruGreen holds regular Branch Manager meetings which Ms. Weaver has attended in the past. At these meetings, she is excluded, ignored and shunned by District and Regional Managers and other male Branch Managers.

25. Ms. Weaver has complained to management of TruGreen of the discriminatory treatment towards her; but nothing has been done.

26. Ms. Weaver's annual salary is approximately $145,000 plus benefits.

27. The harassment directed against Ms. Weaver because of her sex and age is severe,

pervasive and effects her working conditions.

28. TruGreen has not exercised reasonable care to prevent or correct the acts of harassment against Ms. Weaver.

29. Ms. Weaver has seen and continues to see a psychologist for help in coping with the harassment and intimidation directed against her by TruGreen.

30. TruGreen has created, condoned and encouraged the hostility against Ms. Weaver for the purpose of forcing her to quit.

31. On or about October 12, 2000, Ms. Weaver filed a charge of discrimination based on sex and age with the EEOC as Charge No. 390A10057.

32. Following Defendant's receipt of Plaintiff's charge of discrimination, the Defendant took the following retaliatory actions:

a. Plaintiff was denied her annual bonus on or about March 29, 2001;

b. Ms. Weaver was ostracized at company conferences and meetings;

c. Defendant has withheld and not paid Plaintiff over $50,000 of her annual compensation since she filed the EEOC complaint;

d. Company officials have accused her of "not being Company-minded" and statements have been made that her "days are numbered" with the Company;

e. Company officials have made derogatory and disparaging remarks against Plaintiff.

33. On or about April 9, 2001, Plaintiff filed an EEOC Charge of Retaliation, Charge Number 390A10980.

34. On or about November 15, 2001, Plaintiff received a "Right to Sue" letter from

the EEOC.

35. Plaintiff has satisfied all administrative pre-requisites for filing this Complaint for Retaliation.

36. Plaintiff has lost income, and suffered emotional distress as a result of retaliatory actions against her.

37. Defendant's acts are intentional, willful, malicious, reckless and done in careless disregard of her rights.

COUNT I
RETALIATION

38. Plaintiff hereby incorporates paragraphs 1 through 37 above as though fully set forth herein.

39. Plaintiff's complaints of discrimination to Defendant and her filing of a charge of discrimination on October 10, 2000, Charge Number 390A10057, are protected activity.

40. Defendant has taken adverse employment action against Plaintiff following Defendant's Notice of Plaintiff's Charge of Discrimination and Complaints of Discrimination.

41. Plaintiff has experienced pecuniary losses, emotional distress and other compensatory damages as a result of Defendant's retaliatory acts.

42. Plaintiff has incurred attorney fees and costs.

43. Defendant's conduct was intentional, willful, wanton, malicious and reckless.

WHEREFORE, Plaintiff respectfully requests this Court to enter Judgment in her favor and against the Defendant and award her pecuniary losses, compensatory losses and damages, punitive damages, pre- and an post-judgment interest, attorney fees and costs and further, Plaintiff respectfully requests this Court to enter equitable injunctive relief in the form of an Order directing Defendant to refrain from retaliating against her.

Respectfully submitted,

J. EDWARD HOLLINGTON & ASSOCIATES, P.A.

By______________________

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